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14. ABSTRACT

This paper examines the merits of the concept of the Responsibility to Protect (R2P) from conceptualization through contemporary domestic and international efforts at operationalization. R2P is a relatively recent approach, conceptualized in 2001 by the International Convention on Intervention and State Sovereignty (ICISS), whose objective is to establish effective policies to prevent or stop mass crimes against civilians. The United Nations formally adopted the definition of R2P in 2005 and embraced the international responsibility of prevention, but limited the types of threats to which it applies to those of genocide, war crimes, ethnic cleansing and crimes against humanity. More recently, the administration of President Barak Obama made significant strides in the development of R2P policy through its inclusion in the National Security Strategy in 2008 and the 2011 release of Presidential Study Directive 10. This topic is explored through a survey of current international and domestic efforts to balance the ends, ways, and means of R2P through a comparative discussion of the UN and US approaches to implementing R2P.

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JOINT ADVANCED WARFIGHTING SCHOOL

<u>BRIDGING THE ENDS AND MEANS OF THE RESPONSIBILITY TO PROTECT: AN OPPORTUNITY FOR U.S. LEADERSHIP</u>

by

Ivan G. Carlson

CDR, U.S. Navy

BRIDGING THE ENDS AND MEANS OF THE RESPONSIBILITY TO PROTECT: AN OPPORTUNITY FOR U.S. LEADERSHIP

by

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A paper submitted to the Faculty of the Joint Advanced Warfighting School in partial satisfaction of the requirements of a Master of Science Degree in Joint Campaign Planning and Strategy. The contents of this paper reflect my own personal views and are not necessarily endorsed by the Joint Forces Staff College or the Department of Defense.

This paper is entirely my own work except as documented in footnotes.
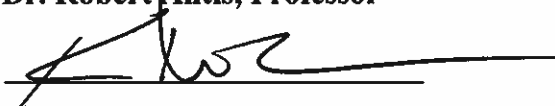
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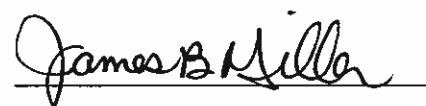
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ABSTRACT

This paper examines the merits of the concept of the Responsibility to Protect (R2P) from conceptualization through domestic and international efforts at operationalization. R2P is a relatively recent approach whose objective is to provide effective ways to address the recurrent problem of mass atrocities through emphasis on prevention and a modern interpretation of sovereignty which includes a responsibility of government to protect their populations from internal and external threats of all types.

R2P was conceptualized in 2001 by the International Convention on Intervention and State Sovereignty (ICISS). It expanded international responsibility from reaction to mass atrocities to include prevention and post-conflict rebuilding. In addition to traditional justification for intervention, it also included all threats to a population, including disease, famine, and natural disasters. Based upon the work of the ICISS, the United Nations formally adopted the definition of R2P in 2005 and embraced the international responsibility of prevention, but limited the types of threats to which it applies to those of genocide, war crimes, ethnic cleansing and crimes against humanity. Although additional documents have been developed at the U.N. toward implementation, none have been adopted and there continues to be lack of a coherency and consistency in addressing humanitarian crises. More recently, the administration of President Barak Obama made significant strides in the development of R2P policy through its inclusion in the National Security Strategy in 2008 and the 2011 release of Presidential Study Directive 10. Current efforts in the U.S. draw upon a comprehensive framework published by the Genocide Prevention Task Force to develop a national policy for the prevention of mass atrocities.

This topic is explored through a survey of international and domestic efforts to balance the ends, ways, and means of R2P while simultaneously trying to avert potential mass atrocities in Libya and Syria. It is followed by a comparative discussion of the UN and US approaches to implementing R2P.

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CHAPTER 1: INTRODUCTION

Understanding the Problem

The responsibility to protect (R2P) is a concept which arose from the international

community's effort to determine an appropriate approach to address the problems of

genocide and humanitarian crises. It promotes the development and implementation of a

formal process to elevate humanitarian concerns to the United Nations Security Council

(UNSC) and a framework by which the international community can apply increasing

non-coercive and coercive diplomatic, legal, and military options to prevent or stop mass

atrocity crimes against civilians.[1] It continues to garner international attention due to the

frequency of humanitarian crises, and the growth of influence and interdependency of

international organizations, national governments, and non-governmental organizations

(NGOs).[2] R2P has gained increasing advocacy from a global conscience resulting from a

shared century of war, increased exposure facilitated by information technology, and a

lack of consensus on an international solution.

The central problem is the lack of any definitive international or domestic policy

on how to effectively prevent or respond to humanitarian crises and the barriers to

implementation at the United Nations (UN). This paper provides a critical analysis of

existing efforts to develop R2P doctrine, the strategic environment, the actors, and their

relationships in order to recommend a construct for development and adoption of an

international approach to humanitarian crises to support its thesis. Lack of consensus on

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[1] International Commission on Intervention and State Sovereignty,Gareth J. Evans, and Mohamed Sahnoun, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*, (Ottawa: International Development Research Centre, 2001), 8-9.

[2] Ibid., 3-4.

formal R2P doctrine at the UN and the absence of developmental effort at the North

Atlantic Treaty Organization (NATO) afford the US an opportunity for leadership in the

development, institutionalization and operationalization of R2P policy. Throughout this

process, it is important to bear in mind the root of the problem; that the UN is the sole

international organization with the authority to authorize intervention options, but lacks

both the capability and policy framework for consistent application and enforcement.

Throughout this thesis, the term "intervention" refers to any response option to

prevent or stop the four mass crimes against civilians specified within the *2005 World

Summit Outcome*. These include genocide, war crimes, ethnic cleansing, and crimes

against humanity.[3] The 1948 Convention on the Prevention and Punishment of the

Crime of Genocide originally defined genocide, and the International Criminal Court

adopted that definition in Article 6 of its Rome Statute. Articles 7 and 8 define crimes

against humanity and war crimes, respectively.[4] The definition for ethnic cleansing is

drawn from the *Mass Atrocities Response Operations* handbook. The exact wording and

semantics are important to this discussion because of the difficulty in determining

whether a government's actions to repress opposition movements target armed forces or

unarmed civilians. Often, strategic communications are used by the government or its

allies to frame mass atrocity crimes as a civil war. Current events in Syria provide such

an example. The government of Syria insists that it is fighting a foreign funded internal

terrorist movement, while its close ally, Russia, vetoed a UNSC resolution for

intervention on the grounds that international action would preclude diplomatic

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[3] United Nations, General Assembly, *2005 World Summit Outcome: Draft Resolution Referred to the High-Level Plenary Meeting of the General Assembly* (New York: UN, 2005), 31-32.

[4] United Nations, *Rome Statute of the International Criminal Court,* United Nations, untreaty.un.org/cod/icc/statute/romefra.htm (accessed May 15, 2012), Articles 6, 7 and 8.

mediation. Due to the length and detail of these four definitions, Appendix A provides

them in their entirety.

The UN has already adopted and exercised the legal foundation for intervention in

humanitarian crises. The 1948 UN Convention on the Prevention of the Crime of

Genocide defined the crime of genocide and is invoked by the UN Security Council

(UNSC) when taking action to authorize intervention on humanitarian reasons.[5]

Furthermore, the responsibility to protect was recognized by the UN General Assembly

in 2005 and endorsed by the Security Council in 2006 as Resolution 1674.[6] Because the

UN lacks the capability to enforce authorized interventions, it authorizes member states

and regional alliances to act in its stead. NATO, in accordance with its expanding

mission as defined by Strategic Concepts adopted in 1991, 1999 and 2010, embarked

upon operations to enforce Security Council mandates in 1995 against the former

Yugoslavia and again in 2011 in Libya. The Strategic Concepts outline an expansion of

NATO's central mission to include out of area operations and cooperative security, and

also reaffirms the organization's subordination to the UN.[7] However, because NATO is

widely perceived as a military actor and lacks requisite civilian capabilities, it formally

adopted a Comprehensive Approach Action Plan at the 2006 Riga Summit to include

non-member countries, international organizations and NGOs to bring a "unity of

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[5] United Nations, Audiovisual Library of International Law, "Convention for the Prevention and Punishment of the Crime of Genocide," United Nations, http://www.un.org/law/avl (accessed September 27, 2011).

[6] United Nations, Security Council, *Security Council Resolution 1674. Protection of Civilians in Armed Conflict*, UNSC S/RES/1674 (New York: UN, 28 April 2006), para. 4.

[7] North Atlantic Treaty Organization, *Strategic Concept for the Defence and Security of The Members of the North Atlantic Treaty Organization*, (Lisbon: NATO, November 19, 2010), 2.

international effort" to its planning processes.[8] NATO and the UN further codified their

relationship in the Joint Declaration on UN/NATO Secretariat Cooperation of September

2008 to facilitate greater cooperation to address threats and challenges.[9] This has

significant implications for the United States as the most powerful member of NATO.

The administration of US President Barak Obama supports the concept of R2P

and belief that the US bears a unique and moral obligation to assume a leadership role in

confronting humanitarian crises. In its 2010 National Security Strategy (NSS), the US

claims respect for universal values around the world and an international order that

promotes peace, security, and opportunity through stronger cooperation to meet global

challenges as two of its four enduring interests.[10] The NSS also stresses the need for a

balanced approach of soft and hard power as well as international, vice unilateral,

solutions to global issues. The rising number of international political and economic

stressors presents a high probability these actors, the UN, NATO and NGOs, will

continue to be called upon to address humanitarian crises.

The promotion of an international responsibility to intervene in domestic crises in

foreign countries where neither national interests nor security are at stake is often

criticized as overly idealistic. The objective of R2P, to prevent or stop mass atrocities

against civilians, requires a realistic framework of ways and means in order to satisfy

skeptics. It also requires a realistic and global understanding of current and projected

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[8] Christian Molling, "Comprehensive Approaches to International Crisis Management," *CSS Analyses in Security Policy* 3, No 42 (October 2008): 3, http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?lng=en&id=93229 (accessed October 19, 2011).

[9] North Atlantic Treaty Organization. "NATO's Relations with the United Nations," NATO, http://www.nato.int/cps/en/natolive/topics_50321.htm (accessed November 1, 2011).

[10] U.S. President. *National Security Strategy,* (Washington DC: Government Printing Office, May 2010), 7.

stressors that will increase competition between growing populations over decreasing resources. Chapter 1 outlines the current strategic environment and includes a myriad of trends which will further complicate the international community's ability to manage emergent humanitarian crises. These same trends will also likely contribute to increasing frequency of crises.

The U.S. National Intelligence Council's most recent analysis of the strategic environment, *Global Trends 2025: A Transformed World* provides an overview of global trends in the context of national security to many U.S. security policies including the Quadrennial Defense Review, the National Military Strategy and the Department of Homeland Defense Security Strategy. Among the trends most likely to stress failing states are rapidly increasing populations and "youth bulges" in the developing world, food and water scarcity, access to energy resources, climate change, and the rising power of non-state actors including businesses, tribes, religious organizations and criminal networks.[11] It also identifies global trends which will complicate and limit the ways available to the international community to resolve crises. These include the rise of regional organizations that will result in a multipolar world in which the US is no longer the sole superpower, an increasing access, lethality and proliferation of weapons of mass destruction (WMDs), aging populations of western powers, and a tremendous shift of wealth from the West to the East. Another sobering reference for a generalized summary of the strategic environment is the 2011 Failed States Index produced by the Fund for Peace. Of a total 171 countries reviewed across twelve indicators in social, economic and political criteria, 35 (20 percent) were assigned "Alert" status while another 99 (58

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[11] U.S. National Intelligence Council, *Global Trends 2025: A Transformed World*, (Washington DC: U.S. Government Printing Office, November 2008), iv-v.

percent) received grades of "Warning."[12] It is notable that then-Chairman of the Joint Chiefs of Staff delivered the keynote address at the launch event for the Failed States Index.[13] The regional areas of instability caused by weak or failed governance and complicating factors of domestic and international global trends produce an incredibly complex background against which to engineer an international solution to humanitarian crises.

Central to this discussion is the question of capability and capacity to enforce a UNSC authorization for intervention. Pattison argues that based on track record, legitimacy and institutional characteristics, the top five potential interveners include NATO, states and coalitions of the willing, the UN, regional organizations, and private military companies.[14] NATO demonstrated both capability and capacity during Operation UNIFIED PROTECTOR(OUP) while enforcing the UNSC Resolution 1973 authorization for member states to take all necessary actions to protect civilians and civilian populated areas from Libyan government forces.[15]

There are many advantages to NATO forging an international approach for addressing these crises. First, it is still riding a crest of international appreciation for the recently completed OUP and enjoying cautious global approval that will give them a mantle of legitimacy on the subject – at least in the short term. NATO's experience in OUP could be leveraged to promote a generic, disciplined, and structured approach that

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[12] Fund for Peace, "The Failed States Index 2011." Fund for Peace. http://www.fundforpeace.org/global/?q=fsi-grid2011 (accessed October 25, 2011).

[13] Ibid.

[14] James Pattison, *Humanitarian Intervention & the Responsibility to Protect* (New York: Oxford University Press Inc., 2010), 199-201.

[15] United Nations, Security Council, *Security Council Resolution 1973 (2011),* UNSC S/RES/1973. United Nations (New York, 26 February 2011), para 4.

would preserve flexibility of response and could achieve consensus among member nations. As in the Libyan intervention, NATO, under the authority of a UN Security Council Resolution, may be recognized as a legitimate interested party to the solution due to its proximity to many troubled regions and would have a greater chance at consensus due to its smaller membership comprised of ideologically similar-minded governments. NATO's 60 years of operational existence, crisis management planning capability, interagency and international Comprehensive Approach Action Plan, growing network of non-member partner nations and a formally defined executive relationship with the UN uniquely qualify NATO to undertake this challenge. Finally, a public roadmap for international humanitarian missions may provide a valuable deterrent.

NATO appeared to be the most likely organization to effectively develop and implement R2P doctrine for many of the aforementioned reasons. But recent financial and political factors now indicate otherwise. Despite its mision expansion from collective defense to peace enforcement and its recent success in Libya, NATO may not be the solution for which R2P advocates have been searching. Deployment fatigue and the financial burden of the long-term commitment in Afghanistan have taken its toll on member populations. The worldwide financial crisis has impacted NATO member countries, resulting in contractions in defense spending and a public shift to establish a "smart defense" concept to broaden the concept of burden sharing. Concerned about potential political instability, ruling parties are focused more on domestic issues than solving problems in remote countries. More immediately, NATO Secretary-General Anders Rasmussen emphasized that the alliance has no intention of supporting an intervention in Syria even if the UNSC passed a resolution calling for the protection of

Syrian civilians.[16] He recommended instead that the Arab League assume a leadership role in finding a solution. Relative to the UN and the US, NATO has not made public any formal efforts to develop R2P policy. This fact precludes the inclusion of NATO as a potential leader in the development of R2P doctrine for consideration by the international community. This leaves the UN and the US as primary actors for R2P.

While there are many obvious benefits in committing to an international approach to humanitarian crises, there are also significant risks that were effectively summarized by Schnabel. The most obvious is the very distinct possibility of over-obligating NATO and the UN. He observes that an international policy may motivate opposition movements to provoke a confrontation with their respective government, forcing the international community to initiate intervention options.[17] He also notes that an active international response mechanism may actually encourage the proliferation of weapons of mass destruction due to efforts of repressive regimes to obtain the means to resist an intervention. In order to be flexible and adaptive to unique circumstances of each crisis, any potential international or domestic R2P doctrine must include a broad range of increasingly coercive diplomatic and economic options with the goal of achieving the objective without the necessity of military force.

For the purposes of this discussion, it will be necessary to narrow the scope of the discussion to a single manageable issue, that of bridging the ends, or international objectives, with the means, or capability and capacity to act. A specific, actionable

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[16] Simon Cameron-Moore, "NATO to stay out of Syria even if UN mandate emerges." Reuters, http://www.reuters.com/article/2012/02/17/us-syria-nato-idUSTRE81G0ZF20120217 (accessed May 11, 2012).

[17] Albrecht Schnabel and Ramesh Thakur, "Unbridled Humanitarianism: Between Justice, Power, and Authority," In *Kosovo and the Challenge of Humanitarian Intervention* (New York: United Nations University Press, 2000), 499.

doctrine synchronizing diplomatic, economic, and military instruments of international

power to prevent or halt the course of an ongoing or imminent humanitarian crisis. The

question of the authority of the UNSC to authorize a legitimate intervention is considered

to have been answered in the affirmative, based on the adoption of the 2005 World

Summit Outcome by the UN General Assembly and Security Council as discussed in

Chapter 4. Additionally, the genesis of the crisis, whether by malicious design or

haplessness, has no bearing in this discussion; only the government's ability and

willingness to affect a timely solution. A cursory review of causal factors leading to

humanitarian crises in the twentieth century are simply too disparate and complex to

address. It suffices to acknowledge that any R2P doctrine will ultimately need to be

sensitive to the necessity of understanding the history, root causes, and unique

circumstances that fomented the crisis.

CHAPTER 2: WHY DO WE CARE? THE STRATEGIC ENVIRONMENT

National Interest

"The United States and all member states of the UN have endorsed the concept of the "Responsibility to Protect." In so doing, we have recognized that the primary responsibility for preventing genocide and mass atrocity rests with sovereign governments, but that this responsibility passes to the broader international community when sovereign governments themselves commit genocide or mass atrocities, or when they prove themselves unable or unwilling to take necessary action to prevent or respond to such crimes inside their borders."[1]

As the highest level of national strategic guidance, the President's NSS informs national, foreign and defense policies presented in the Quadrennial Diplomacy and Development Review (QDDR) and the Quadrennial Defense Review (QDR). The NSS formally recognizes R2P and embeds it in US policy. Furthermore, the NSS articulates four enduring American interests:

- The security of the United States, its citizens, and US allies and partners;

- A strong innovative, and growing US economy in an open international economic system that promotes opportunity and prosperity;

- Respect for universal values at home and around the world; and

- An international order advanced by US leadership that promotes peace, security, and opportunity through stronger cooperation to meet global challenges.[2]

R2P advocates emphasize the latter two as grounds for a more proactive foreign policy regarding humanitarian intervention, but a primary argument against intervention has been that U.S. strategic interests must be threatened prior to US involvement beyond international sanctions. The NSS articulates an apparent limit to the national obligation to promote respect for universal values around the world when it states, "we are

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[1] U.S. President. *National Security Strategy*. (Washington DC: Government Printing Office, May 2010), 48.

[2] Ibid., 7.

promoting universal values abroad by living them at home, and will not seek to impose

those values through force. Instead, we are working to strengthen international norms on

the behalf of human rights, while welcoming all peaceful democratic movements."[3]

More recently, the President released a significant amplification on national

policy regarding humanitarian crises. The Presidential Study Directive on Mass

Atrocities (PSD-10, dated 4 August 2011, opens with the assertion, "Preventing mass

atrocities and genocide is a core national security interest and a core moral responsibility

of the United States."[4] PSD-10 justifies the elevation of R2P in US foreign policy on the

basis that humanitarian crises create regional instability and that inaction damages the

international reputation of the United States. It also notes that without a comprehensive

policy to prevent or respond to mass atrocities, actionable response options become more

limited, difficult, and costly to affect.[5] PSD-10 also directed the creation of an

interagency Atrocities Prevention Board (APB) whose goals are fourfold:

- Ensure our national security apparatus recognizes and is responsive to early indicators of potential atrocities;

- That departments and agencies develop and implement comprehensive atrocity prevention and response strategies in a manner that allows "red flags" and dissent to be raised to decision makers;

- That we increase the capacity and develop doctrine for our foreign service, armed services, and development professionals, and other actors to engage the full spectrum of smart prevention activities; and

- That we are optimally positioned to work with our allies in order to ensure that the burdens of atrocity prevention and response are appropriately shared.[6]

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[3] Ibid., 5.

[4] U.S. President. *Presidential Study Directive on Mass Atrocities*. (Washington DC: Government Printing Office, August 4, 2011), 1.

[5] Ibid.

[6] Ibid.

In his direction to the National Security Advisor initiating a 100-day interagency review, the President specifically directed the consideration of the final report produced by the Genocide Prevention Task Force (GPTF). This 2008 report, co-chaired by former Secretaries Madeleine Albright and William Cohen, provides an often-cited schema as a potential approach to a more comprehensive domestic R2P policy.

Since the President included it as a starting point for the efforts of the new Atrocities Prevention Board, and because PSD-10 cites the GPTF report both in verbiage and intent, this report constitutes one of the three formative building blocks in US R2P policy analyzed in Chapter 4. It is reasonable to expect that with the advent of a coherent national policy toward preventing humanitarian crises, the US will better exercise its international leadership in recommending response options to developing crises and will promote this policy as a potential template to a new international norm.

The Arab Spring

The most immediate concern for the international community and R2P advocates is the Arab Spring phenomenon. It erupted in December of 2010 when Mohamed Bouazizi, a Tunisian street side fruit vender, committed self-immolation to protest harassment and corruption of the local authorities.[7] It led to the ouster of President Zine el-Abidine Ben Ali in less than a month and a democratically elected government less than a year later. It may be difficult for observers in the West to fully appreciate the power of example this may have inspired.

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[7] Fouad Ajami, "The Arab Spring at One. A Year of Living Dangerously," *Foreign Affairs* 91, no. 2 (March/April 2012): 58.

To date, popular uprisings and opposition movements have achieved regime change in Tunis, Egypt, and Libya. Opposition groups mobilizing in various fashions in Yemen, Syria, Jordan and Bahrain indicate that the Arab Spring likely represents just the first wave of awareness and popular uprisings against repressive regimes. Its genesis is attributed to a confluence of problems including explosive population growth, youth unemployment, economic disparity, failed or weak governance, and repressive security measures and a host of others.[8] It is not so much a product of discontent aimed at ruling parties, but rather a decades-long combination of political, economic, demographic and technological factors that defy short-term solutions and reform efforts.

A month after Tunisia, Egypt effected a regime change in February of 2011, successfully ousting President Hosni Mubarak and establishing an interim military government. However, perceived efforts by the Egyptian military to hold power, to insulate its power from any future government, and to delay a transition to an elected government incited national protests and violent confrontation in November, 2011. Although suspicions regarding the role of the military in the future government persist, Egypt had its first parliamentary elections in January of this year and the presidential election in May. The final runoff for the first freely elected president of Egypt is scheduled for 16 June.[9]

Libya is unique in that it succeeded in regime change with substantial international assistance from Operation UNIFIED PROTECTOR (OUP). Under the

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[8] Anthony Cordesman, "Rethinking the Arab Spring. Stability and Security in Egypt, Libya, Tunisia, and the Rest of the MENA Region," Center for Strategic Studies and International Studies, http://csis.org/files/publication/111102_MENA_Stability_Security.pdf (accessed November 16, 2011).

[9] New York Times, "Egypt News – Presidential Elections, May 2012," New York Times, http://topics.nytimes.com/top/news/international/countriesandterritories/egypt/index.html (accessed 30 May 2012).

authority of a UNSC Resolution 1973, and with broad international support, NATO

provided military advisors and precision bombing support against government military

targets, enabling opposition forces to gain ground and eliminate Khadafi. NATO

terminated OUP on October 31, 2011, and the UN commenced a 90-day operation to

assist the National Transition Council (NTC) to establish an interim government.[10] The

Libyan intervention has been widely characterized as a success, and received approval

based on the premise of preventing a humanitarian catastrophe. The Libyan NTC is

currently struggling with a broken infrastructure, reprisal attacks, arms smuggling, and

inter-tribal violence and is receiving international assistance through the United Nations

Support Mission in Libya (UNSMIL).[11]

Syria is currently the most prominent MENA country accused of mass atrocities

against civilians while attempting to repress armed opposition forces. As of April 2012,

the international community is increasingly applying non-coercive measures in a way that

closely parallels the early stages of the Libyan intervention. These unsuccessful efforts

culminated in a UNSC veto of an Arab League-backed resolution calling for the Syrian

President to step down. Russia based its veto on the argument that the resolution did not

require enough concessions from armed opposition groups and that it preempted any

outcome of future mediation.[12] Similarly, China argued that the UN and the international

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[10] Ivo H. Daalder and James G. Stavridis, "NATO's Victory in Libya. The Right Way to Run an Intervention," *Foreign Affairs* 91, no. 2 (March/April 2012): 2-3.

[11] United Nations, "Libya," UN Department of Public Affairs, http://www.un.org/wcm/content/site/undpa/main/activities_by_region/africa/libya (accessed 30 May 2012).

[12] Associated Press, "Russia, China veto UN resolution against Syria," CBS, http://www.cbsnews.com/8301-202_162-57371608/russia-china-veto-un-resolution-against-syria/ (accessed May 12, 2012).

community had not given mediation attempts ample effort or time to warrant intervention.[13]

Following the UNSC veto of a Syrian intervention, former UN Secretary-General Kofi Annan was appointed as Joint Special Envoy to attempt de-escalation between the government and opposition forces. He achieved this on 25 March 2012 with a six-point plan that included cessation of all violence, access for humanitarian assistance, detainee rights, access for journalists, and the right of peaceful demonstration.[14] Oversight was provided by UNSC Resolution 2042, allowing an advance team of 30 unarmed UN observers deployed to Syria on April 16th with the expectation of a total force of 300. Despite the continued restrictions on media access, unverified and sporadic reports of continued violence against civilians do not bode well for a peaceful or simple solution.

Regardless of the root causes of the Arab Spring, this area is the geographic point at which Europe, Africa, and the Middle East intersect and contains a high concentration of the world's energy resources.[15] Regionally, it is at the intersection of four major regional organizations: the European Union (EU), NATO, the African Union (AU), and the Arab League; the first three of which posses authority and capability to support a humanitarian intervention.[16] The intersection of continental and regional boundaries, long history of social problems and religious strife, weak governance, and strategic

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[13] Associated Press, "China says it was forced to veto UN measure on Syria," Fox News, www.foxnews.com/world/2012/02/06/china_defends_its_veto_un_measure_on_syria/print (accessed February 6, 2012).

[14] United Nations, Secretary-General, *Letter dated 19 April 2012 from the Secretary-General addressed to the President of the Security Council*, by UN Secretary-General Ban Ki-moon, United Nations (New York, 2012).

[15] Chas A. Freeman, Jr., "The Arab Awakening: Strategic Implications," *Middle East Policy*, 18, 2 (Summer 2011): 29-30.

[16] Madeleine K. Albright, William S. Cohen, and John C. Danforth, *Preventing Genocide: A Blueprint for U.S. Policymakers* (Washington, DC: American Academy of Diplomacy, 2008), 84.

importance of energy reserves create a focal point of concern for the international

community and R2P advocates alike.

Global Trends

There are many compelling and concerning trends affecting many regions that

will contribute to growing regional instability and attract international attention. Many of

these are effectively captured in the National Intelligence Council's (NIC) *Global Trends

2025* document. For this discussion, the most significant trends include a shifting

international balance of power in which non-state actors will play a role, scarcity of

energy, food and water and the potential acerbation that climate change may affect, the

growing availability of lethal technologies, and rapidly growing populations in many

troubled regions.[17] Most germane to this discussion is the NIC's estimate that the US

will remain the world's most powerful country for the foreseeable future.[18]

The shifting balance of power and the rising influence of non-state actors,

including NGOs, multinational corporations, religious groups, pose evolving

uncertainties for how the international community interacts. Historically, multipolar

systems are less stable than either bipolar or unipolar systems.[19] The shifting

international balance of power will also be heavily influenced, and possibly accelerated,

by the waves of economic stressors across the interdependent economies of the West and

growing economic power of China, India, and oil-rich countries.[20] The implication is

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[17] U.S. National Intelligence Council, *Global Trends 2025: A Transformed World*, (Washington DC: U.S. Government Printing Office, November 2008), iv-v

[18] Ibid., iv.

[19] Ibid., vi.

[20] Ibid., vii.

that the ability of the US to exert influence via regional and international organizations will weaken, thus making international efforts much more dependent on a wide range of actors. Another variable which may affect the balance of power is the growing availability, miniaturization, and decreasing cost of lethal technologies and the willingness of under advantaged countries to resort to their use in times of duress.

Rapidly growing populations, especially in Asia, Africa and Latin America will account for nearly all global population growth over the next two decades while the West is projected to grow at only three percent.[21] Many of these expanding populations exhibit a phenomenon known as a "youth bulge," a disproportionately young population. Combined with widespread unemployment, poverty, and little hope of improvement, this youthful imbalance has been widely cited as one of the precipitating factors in the social unrest leading to the Arab Spring. According to World Bank data, persons 14 years and younger comprise over one-third of the populations in low-income and developing countries compared to less than one-fifth for high-income countries.[22] Conversely, developed nations face the problem of managing rapidly rising costs of healthcare and social security for the elderly as tax revenues decrease due to lower tax-paying percentages of their populations.[23]

Experts expect food and water scarcity to worsen as well. The UN World Food Programme produces an annual "Hunger Map" and estimates the current worldwide

[21] Ibid., vii.

[22] World Bank, "Beyond Economic Growth. Health and Longevity," World Bank, www.worldbank.org/depweb/english/beyond/global/chapter8.html (accessed February 2, 2012).

[23] Ibid., Ch 8.

number of people suffering malnutrition at 925 million.[24] The World Bank estimates that

food demand will increase 50 percent by the year 2030. Currently, 21 countries totaling

600 million people live in areas lacking sufficient water or cropland, with this number

expected to rise to 36 countries totaling 1.4 billion people by 2025.[25] Water scarcity

affects roughly one-fifth of the world's population primarily in the MENA region, east

Africa and Asia, and contributes to poverty and food insecurity. Considering water use

increased at over twice the rate of the population over the last century, experts expect the

trend to worsen, increasing international competition in affected regions.[26] These

worrisome forecasts are likely to be exacerbated by growing urbanization, the increasing

concentration of populations gravitating toward cities.

Trends in demographics, poverty, and food and water scarcity are individually

grim. They are much more alarming when considered together, overlapping across

Africa, Asia and South America. They illustrate a stark reality of rapidly growing

populations in economically troubled regions of decreasing resources. These trends will

continue to challenge governments and, if not properly managed, fuel social distress and

political instability.

2011 Failed States Index

Against the backdrop of global trends provided by the NIC, another more

immediate call for concern is the "2011 Index of Failed States," an annual ranking of 177

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[24] United Nations, World Food Programme, "World Food Programme. Hunger," World Food Programme, http://www.wfp.org/hunger/map (accessed May 12, 2012).

[25] US National Intelligence Council, *Global Trends 2025: A Transformed World*, (Washington DC: U.S. Government Printing Office, November 2008), viii.

[26] United Nations, "International Decade for Action 'WATER FOR LIFE' 2005-2015," UN Department of Economic and Social Affairs, http://www.un.org/waterforlifedecade/scarcity.shtml (accessed May 12, 2012).

countries across 12 indicators produced by the Fund for Peace and published by *Foreign Policy* magazine since 2005. The Fund for Peace is a self-described "independent, nonpartisan, 501(c) (3) non-profit research and educational organization that works to prevent violent conflict and promote sustainable security."[27] The twelve indicators used to rank failed states include mounting demographic pressures, large refugee migrations, vengeance-seeking group grievances, chronic and sustained human flight, uneven economic development, poverty and economic decline, governance, deterioration of public services, human rights violations, security apparatus, factionalized elites and state institutions, and intervention of external actors.[28] Rather than argue the validity of this model, it will suffice to conclude that it provides a relative regional schema for instability that will likely require international involvement and assistance to rectify, and that world leaders both respect its content and will promote international policies based upon it. As the keynote speaker at the 2011 Failed State Index launching event, then-Chairman of the Joint Chiefs of Staff, Admiral Michael Mullen commented, "It's imperative that we all figure out how we're going to address these challenges together, because these challenges will come at us…at a speed, quite frankly, that is accelerating."[29]

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[27] The Fund for Peace, "About the Fund for Peace," The Fund for Peace, http://www.fundforpeace.org/global/?q=aboutus (accessed November 25, 2011).

[28] The Fund for Peace, "Conflict Indicators," The Fund for Peace, http://www.fundforpeace.org/global/?q=indicators (accessed November 19, 2011).

[29] The Fund for Peace, "Failed States Index 2011: Keynote Address," The Fund for Peace, http://www.fundforpeace.org/global/?q=node/153 (accessed October 25, 2011).

Rwanda: The Conscience of the R2P Community

The 1994 genocide of an estimated one million Tutsi and moderate Hutu civilians in only ten weeks by a Hutu-dominated Rwandan military and Hutu militias[30] merits special consideration in the examination of the strategic environment of R2P for several reasons. The tragic and significant failure of the international community to intervene does not require analysis in this discussion, nor does the history of ethnic strife in the decades prior to and since the genocide. There have been exhaustive studies on these subjects already. Rather, it is helpful to distill some keys points from these studies which continue to shape the ways in which people and the organizations they represent and lead think about genocide and mass atrocities.

First, Rwanda highlighted how swiftly a well-coordinated mass atrocity can be executed upon the victim group. In this case, only 100 days from start to finish. When considering response options for any R2P policy, this is a very short timeline in which to exercise any full range of options throughout the diplomatic and military force spectrum. This is particularly critical considering the timeline to deploy a capable military force overseas would require at least a full month.

Second, although the U.N. had a small peacekeeping mission present whose commander had reasonable suspicion of the looming crisis, his requests for minimal proactive measures were denied.[31] The inability of the international community to

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[30] Congressional Research Service, *Rwanda: Background and Current Developments* (Washington DC: Government Printing Office, October 11, 2011), 3.

[31] Tony Waters, "Identifying the Limits to Humanitarian Intervention: Echoes from Rwanda – A Review Article," *African Studies Quarterly* 9, no.3, Spring 2007, http://www.africa.ufl.edu/asq/v9/v9i3a5.htm (accessed 17 November 2011).

publicly acknowledge, much less coordinate an international response, illustrates the glaring absence of any actionable international policy on how to respond to genocide.

Third, although the administration of President Clinton expressed surprise at the magnitude of the killing after the fact, explicit direction to avoid the use of the term "genocide" as events actually unfolded have caused historians to question what President Clinton knew and when did he know it.[32] Samantha Power's interviews with a number of NSC staffers and administration officials for her *Bystanders to Genocide* article seem to indicate that they felt varying degrees of responsibility for failing to stop the genocide in Rwanda.[33] Therefore, at the forefront of R2P policy, the question of political will to do the right thing when faced with evidence and indicators of actual or possible genocide and an institutionalized mechanism to forcefully elevate the matter to national attention remains .

Finally, the Rwanda genocide has taken on the status as the paradigmatic example of the consequences of inaction in the face of mass atrocities. It is no coincidence that the International Convention on Intervention and State Sovereignty opened their report, "The Responsibility to Protect," by recounting the impact of international inaction and lack of political will in the face of mass atrocities.[34]

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[32] Samanth Power, "Bystanders to Genocide," *The Atlantic Monthly* 288, no. 2: 44, September 2001, http://www.theatlantic.com/magazine/archive/2001/09/power-genocide/4571/?single_page=true (accessed 17 November 2011).

[33] Ibid.

[34] The International Commission on Intervention and State Sovereignty, Gareth J. Evans, and MohamedSahnoun, *The Responsibility to Protect: Report on the International Commission on Intervention and State Sovereignty*, (Ottawa: International Development Research Centre, 2001), VII.

Chapter Summary

A fundamental argument pervades a majority of R2P discussions. It pits those whose focus upon the moral issue, "What is the right thing to do?" against those who ask, "What are we realistically capable of accomplishing?" This assessment of the strategic environment for the development of R2P policy is intended for the latter group. It is presented in broad themes and is not intended to be a detailed, systemic analysis. It invites the reader to consider the likelihood of future humanitarian crises and the ramifications of potentially trans-regional ripple effects.

The explicit inclusion of R2P in President Obama's NSS and PSD-10 elevates its status in the current US administration as one of national interest or security. One can no longer argue against R2P on the basis of state sovereignty, as the UN adoption of the 2005 World Summit Outcome accepts that sovereignty is forfeit when the UNSC determines a government is complicit in mass atrocity crimes amongst its population.

Regional overlaps of alarming global trends in poverty, food and water scarcity, population growth and demographics, strategic resources, and failing states illustrate the monumental convergence of stressors on these governments and populations. It is logical to expect these stressors to exacerbate existing social tensions in these troubled areas, increasing the likelihood of international attention and interaction. It is therefore incumbent upon idealists and realists on either side of the R2P argument to support the development of domestic and international R2P doctrines that synchronize the entire spectrum of the instruments of national and international power into a comprehensive framework to prevent or respond to humanitarian crises.

CHAPTER 3: THE CONCEPT OF R2P

The International Commission on Intervention and State Sovereignty

The final report from the International Commission on Intervention and State Sovereignty (ICISS) is the foundational document of the R2P concept. It represents a broad international and interagency consideration of the questions of legitimacy, authorities, operational effectiveness, and political will that surrounded every discussion on potential and past humanitarian inventions. The creation of the ICISS in September 2000 was a direct response from the Government of Canada to a call for action from then UN Secretary-General Kofi Annan.[1] At the center of its inquiry was whether a right to intervene by any external actor in the internal affairs of sovereign states exists under humanitarian pretext, and under what conditions is intervention appropriate. The report includes a three page synopsis on the core principles of R2P and principles under which military interventions may be justified which is included in Appendix A for reference. The document must be considered in its entirety for the purposes of this discussion because it provides invaluable insight into the conceptualization of R2P which informs developing international and U.S. foreign policy efforts that are working to institutionalize and operationalize R2P.

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[1] The International Commission on Intervention and State Sovereignty, Gareth J. Evans, and Mohamed Sahnoun, *The Responsibility to Protect: Report on the International Commission on Intervention and State Sovereignty*, (Ottawa: International Development Research Centre, 2001), VII.

ICISS Report: The Policy Challenge

The ICISS report opens by addressing the policy challenge as it existed in 2001, revisiting four contemporary cases for humanitarian intervention in Rwanda, Kosovo, Bosnia and Somalia, and the failings of the international community in each response. It is in the context of these recent challenges that it summarizes the current policy debate as international concerns that focused in varying degrees on the magnitude of interventions, their effectiveness, legality, precedent, and potential for manipulation for political interests. Next, it defined the international environment in terms of recent trends and new developments spanning the spectrum of actors, security issues, and human rights.

In defining intervention, it accounts for the wide range of intervention options that lie between inaction and the use of military force in order to debunk a historical approach that often failed to consider options other than force, and included preventive measures. It defines intervention as any external coercion, either threatened or actual across the entire range of diplomatic, developmental or military, to influence the internal affairs of another state.[2] Noting a perception from participating and contributing ICISS individuals and organizations that use of the term "humanitarian intervention" is often associated with the use of military force; the report embraces a new term, "the responsibility to protect." The effect of this is to prevent the diversion of the dialogue from states' sovereign rights, to that of the rights of the endangered population whose responsibility to protect is the government of that state.[3]

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[2] Ibid., 8.

[3] Ibid., 9.

Among the new actors, it highlighted the growth of the UN from 51 members in 1945 to 189, regional organizations, international institutions for human rights, NGOs, media, academic institutions and non-state actors. The collapse of the Soviet Union, exploitation of weak states for their resources, proliferation of weaponry, and excessive use of force by governments responding to internal dissent fueled security concerns throughout the 1990's. Using the terrorist attacks on the World Trade Center as an example of how regional instability can have worldwide impact, the Commission argued these security issues can no longer be dismissed by western countries. It then argues that a new international norm in the protection of human security has developed, supported by international law. Increased globalization and information technology heightened both worldwide awareness and expectation for corrective action to gross violations. The Commission concluded its assessment of the international environment by noting that rapid globalization and economic interdependence incentivize neighboring states and the international community to address developing crises earlier.[4] It reinforced the concept of sovereignty under Article 2.1 of the UN Charter but argued that sovereignty entails a dual responsibility to protect populations from all threats, internal and external, in addition to Westphalian responsibilities.[5]

ICISS Report: A New Approach

Based on the concepts of the dual responsibility of sovereignty and emerging principles of human rights, the Commission elaborates on the meaning and scope of R2P, referencing international to support the introduction of the R2P concept to the lexicon of

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[4] Ibid., 7.

[5] Ibid., 8.

intervention thought. The Commission recognized the importance of providing a

framework that provides consistent, credible, and enforceable standards if it were to be

accepted by the international community and provides four objectives to this end.

- to establish clearer rules, procedures and criteria for determining whether, when and how to intervene;
- to establish legitimacy of military intervention when necessary and after other approaches have failed;
- to ensure military intervention is restrained to the purposes of the authorization, is effective, and minimizes human and institutional damage; and
- to help eliminate the causes of conflict while enhancing the prospects for durable and sustainable peace. [6]

Traditional arguments of those favoring non-intervention often invoke Article 2.1

of the U.N. Charter, which affords sovereign states the authority to make decisions

regarding people and resources within their borders, and Article 2.7, the requirement to

respect the sovereign rights of other states. However, history has demonstrated that states

still generally ascribe to *"a priori,"* the use of force in another country to rescue citizens

in danger.[7] This gray area between traditional sovereignty and a priori, or other

perceived justification for intervention, is a vulnerability in international policy that can

be exploited by states who choose to help threatened governments of friendly states, or

assist opposition movements in adversarial states.[8] The Commission also cites the

changed nature of modern conflict in the 20th century as mostly internal, with relative

proportion of civilian casualties increasing dramatically from ten percent to ninety

percent.[9]

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[6] Ibid., 11.

[7] Ibid., 12.

[8] Ibid.

[9] Ibid., 13.

In advancing the concept of dual responsibility, the ICISS report merges the two interpretations of sovereignty, as either state centric or as population centric, into one. It further promotes this new interpretation as one of "sovereignty as responsibility" over the traditional concept of "sovereignty as control.[10]" This would imply that governments are responsible for the safety and welfare of their populations, are responsible for that security to their citizens and the international community, and that officials within the government are responsible as well.[11]

Equally important as the concept of dual responsibility is the development of new international norms for human security. The ICISS defines human security as the physical safety, economic and social well-being, respect for dignity and worth as human beings, and the protection of their human rights and fundamental freedoms. The report supports the legitimacy of intervention on the basis of human security. This includes the use of military force, through international law and practice, citing Article VII and the human rights provisions of the U.N. Charter, natural law, the Universal Declaration of Human Rights and CPPCG, the Geneva Conventions and Additional Protocols on international humanitarian law and the Statute of the International Criminal Court.[12]

Changing the language of the "right to intervene" is a central purpose of the report. A simple semantic change allows the ICISS to shift the landscape of international dialogue on intervention from concerns about preserving sovereignty to concern about providing security to populations in danger. Redefining intervention provides the opportunity to redefine, and expand, the ideology itself. The Commission did so,

[10] Ibid.

[11] Ibid.

[12] Ibid., 16.

asserting that R2P must include options based on the perspective of the at-risk

population, that if states are unable to ensure the security of their citizens the

responsibility passes to international community, and finally, that R2P includes the

responsibility to prevent, the responsibility to react, and the responsibility to rebuild.[13]

ICISS Report: R2P Responsibilities of Prevention, Reaction and Rebuilding

Chapters 3 through 5 of the ICISS Report provide a detailed discussion of the

responsibilities to prevent, react and rebuild. These will be introduced to allow the reader

to understand the parallels between the founding concepts of R2P and later efforts to

institutionalize and operationalize it as doctrine.

The Responsibility to Prevent

The ICISS report highlights the necessity of international commitment to a full

range of preventive measures to avoid the potential of conditions likely to lead to a

humanitarian crisis. It also calls for increased international commitment to development

efforts and investments in at-risk states. In doing so, the Commission acknowledged the

reality that nations are reluctant to expend precious resources on development or

prevention options, preferring instead to delay in hopes the crisis will abate. It argues

that prevention is far less expensive than reaction, citing the findings of the Carnegie

Commission on Preventing Deadly Conflict that international costs reacting to conflicts

in Bosnia and Herzegovina, Somalia, Rwanda, Haiti, the Persian Gulf, Cambodia and El

Salvador reached 200 billion dollars, whereas a preventative approach would have only

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[13] Ibid., 17.

cost 70 billion dollars.[14] In order to garner requisite support for prevention activities, the

Commission identified the need for a viable system for identifying early warnings of

potential crises, a clear articulation of the range of available options, and the political will

of the international community to implement them. It advocates that long term

prevention strategies and shorter notice direct prevention efforts should reflect the

political needs, economic circumstances, legal protections, and government security

institutions and should be incorporated into local, regional and international policy.[15]

The Responsibility to React

The responsibility to react remains as controversial and complex as the traditional

discussion on the right to intervene. The responsibility to react includes the entire range

of available coercive diplomatic, economic or judicial options, with the use of military

force reserved for only the most extreme requirements. Reaction options and sanctions

must be carefully considered and tailored to target the individuals or groups responsible

while minimizing impact to the rest of the population. With regards to a physical

intervention, the Commission reinforces the policy of non-intervention as the

international norm, with military force only appropriate when all other options have been

explored, and when criteria for right authority, just cause, right intention, last resort,

proportional means and reasonable prospects have been met.[16]

The just cause criteria requires that a large scale loss of life or ethnic cleansing,

either actual or apprehended that would "shock the conscience of mankind" must be

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[14] Ibid., 20.

[15] Ibid., 23-24.

[16] Ibid., 32.

imminently likely to occur.[17] The primary obstacle in meeting just cause is the validation

of information by credible sources, which may be presented or manipulated in a political

effort to steer international opinion either in support or opposition of intervention. The

criterion of right intention requires that the primary purpose must be to stop or prevent

human suffering. Last resort requires that every other non-military option and sanction

must have already been explored. Proportional means refers to the size, duration and

intensity of the planned operation must reflect the specific tasks of the approving

authority while limiting risk of harm to civilians and institutional capacity. Finally, the

criterion of reasonable prospect refers to the probability of the operation achieving

success without unacceptable risk to the subject population or likelihood of exacerbating

or spreading the conflict.

The Responsibility to Rebuild

Perhaps the most significant element in the development of R2P ideology is the

inclusion of the responsibility to rebuild in the aftermath of any intervention, working

collaboratively with local government to ensure the viability of security, justice and

economic institutions before transferring authority and terminating the operation. The

Commission acknowledges that this could be a costly and long term commitment by the

intervening forces.

The Commission recommends that intervening authorities have security plans in

place prior to intervention to deal with possible retributional violence, for the

disarmament, demobilization and reintegration of domestic security forces, and to rebuild

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[17] Ibid., 33-34.

national armed forces and police capabilities.[18] A functioning justice system is also

essential to the success of the intervention to protect the rights of returning refugees,

ensure equal property rights as displaced persons attempt to reclaim their homes and

property, and prevent obstructionism by local authorities.[19] The timetable required to

rebuild security institutions would likely require intervening forces to assume non-

military and police functions for an extended period. These are obstacles to which the

Commission notes there are few alternatives and will likely be an impediment to

international consensus to proactive solutions.

ICISS Report: Implementation and Recommendations

The Commission devoted an entire chapter on discussing the UN Charter

protections afforded sovereign states and the authorities and responsibilities of the

Security Council, the General Assembly and the Secretary General. The result was an

argument that, although there was no explicit caveat to a member state's Article 24 right

against foreign intrusions in domestic affairs even for humanitarian purposes, that

Articles 39, 41 and 42 assign sufficient authority to UN bodies to authorize such actions

in the interests of international peace and security.[20] It also highlights the UN Security

Council's authority as the sole entity in the international community to authorize an

intervention.

The Commission discussed the limited nature of operational execution of

interventions to minimize harm to civilians and infrastructure, and the difference between

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[18] Ibid., 41.

[19] Ibid., 42.

[20] Ibid., 47.

it and traditional warfare or peacekeeping operations. In doing so, it noted the UN lacks

any organic capability to plan, supply or execute any kind of military operation and that

enforcement would largely fall to coalitions of willing states. The Commission included

military force as one of many preventive options available to the Security Council,

observing that "preventive deployments" of willing neighboring countries would show

the UN's commitment to action and could be used as the intervention force if events

escalated.

The report called for a UN "Doctrine for Human Protection Operations" that

would broadly address seven keys areas for military humanitarian operations. First, that

the operation should have a clear political objective with a clear mandate from the

Security Council, should be adequately resourced, and have well-defined rules of

engagement. Second, that the operation must remain under civilian political control, with

a military commander to execute it within a single chain of command. Third, the

operation should incorporate incrementalism and gradualism to achieve the objective

while minimizing collateral damage. Fourth, the operation must proceed in a way that

delivers the maximum amount of protection to all civilians. Fifth, all international

humanitarian laws must be strictly followed. Sixth, force protection concerns for the

intervention force must not be allowed to compromise achieving the objective of

protecting civilian populations. Finally, the operation must include the maximum amount

of coordination between civilian, military and involved organizations.[21]

The ICISS Commission made direct recommendations regarding R2P for

implementation to the UN Security Council, the General Assembly, and the secretary-

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[21] Ibid., 67.

General. The recommendation to the General Assembly was to adopt a declaratory

resolution to codify R2P to include the following precepts:

- An affirmation that sovereignty entails a responsibility to protect,

- An assertion of the threefold responsibility of the international community – to prevent, to react and to rebuild – when faced with human protection claims in states that are either unwilling or unable to discharge their responsibility to protect;

- A definition of the threshold (large scale loss of life or ethnic cleansing, actual or apprehended) which human protection claims must meet if they are to justify military intervention; and

- An articulation of the precautionary principles (right intention, last resort, proportional means and reasonable prospects) that must be observed when military force is used for human protection purposes.[22]

The Commission recommended to the Security Council that they recognize the

ICISS "Principles for Military Intervention" to establish guidelines on how the Council

responds to requests for military intervention. The Commission also recommended that

the five permanent members agree to abstain from using their veto powers in cases

lacking vital state interests when there is a majority support for intervention.[23]

Chapter Summary

Viewed in the context of the time in which it was written, the ICISS report

accomplished much. It diverted the focus of contemporary humanitarian intervention

discussions from one of state sovereignty, to one of compassionate assistance to

populations in distress. It created a new lexicon for the conceptual framework it

constructed, and drew upon a decade of unprecedentedly large number of international

humanitarian requirements and growing recognition of human rights in doing so. It also

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[22] Ibid., 74.

[23] Ibid., 75.

succeeded in reinvigorating the international community and scholarly dialogue on solutions to the recurring problem of humanitarian crises. It did this by stressing the wide range of diplomatic and economic mechanisms to apply increasing levels of coercion to governments or actors; thus debunking a common political tactic of offering a military intervention or nothing. It also defused the international concern that state sovereignty is jeopardized by intervention; rather, it expands the concept of sovereignty to include a moral responsibility to protect the civilian population from harm. Once that responsibility is established and accepted by the international community, it makes the discussion about whose responsibility it is to do something when a government refuses or is incapable of helping its own people.

The ICISS report was a major breakthrough in the discussion of human protection, and is still cited in current R2P discussions, but it also has great shortcomings. The most significant of these is the lack of identifying the means by which to support the ways and ends of R2P. The Commission notes that intervention and the responsibility to rebuild could require efforts spanning many years and prodigious amounts of money, but they offer no potential solutions on how to fund interventions or provide forces other than "coalitions of the willing" and call on all people to be better international citizens. The other major obstacle to establishing an international doctrine for R2P is that of sheer political will. In its final chapter, the report dedicates five pages to the discussion of boosting domestic and international will to commit the time, money and people for an intervention. There are numerous influences at work shaping domestic and international perceptions of events, level of interest, and belief in whether or not action should follow. It is widely recognized that of all the factors, the leadership of key individuals and

organizations is the most critical element to galvanize support and provide the political

will to see an intervention through to conclusion.

CHAPTER 4: THE UNITED NATIONS AND R2P

United Nations Secretary General Ban Ki Moon defines the five key challenges to the protection of civilians in armed conflict as compliance with existing international law, engagement with non-state armed actors, training and resourcing for peacekeeping missions, access to affected populations, and accountability for responsible or complicit parties to humanitarian crises.[1]

2005 World Summit Outcome

The United Nations World Summit Outcome provides the most recent articulation of the UN and international community on the subject of R2P. The report institutionalizes the term and concept of R2P, lists the four humanitarian events which warrant intervention of some type by the international community, affirms the authority of the UNSC to authorize humanitarian intervention options, acknowledges the importance of prevention, and commits the UN to further development of R2P policy. The following extract on the responsibility to protect from the World Summit Outcome report was ratified in the 2006 U.N. General Assembly resolution 60/1,

> 138. Each individual State has the responsibility to protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity. This responsibility entails the prevention of such crimes, including their incitement, through appropriate and necessary means. We accept that responsibility and will act in accordance with it. The international community should, as appropriate, encourage and help States to exercise this responsibility and support the United Nations in establishing an early warning capability.
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> 139. The international community, through the United Nations, also has the responsibility to use appropriate diplomatic, humanitarian and other peaceful means, in accordance with Chapters VI and VIII of the Charter, to help to protect populations from genocide, war crimes, ethnic cleansing and crimes against

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[1] Program on Humanitarian Policy and Conflict Research, "UNSC Debates Protection of Civilians in Armed Conflict," Harvard University, http://www.hpcrresearch.org/blog/rob-grace/2011-11-10/unsc-debates-protection-civilians-armed-conflict (accessed 17 November 2011).

humanity. In this context, we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. We stress the need for the General Assembly to continue consideration of the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity and its implications, bearing in mind the principles of the Charter and international law. We also intend to commit ourselves, as necessary and appropriate, to helping States build capacity to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity and to assisting those which are under stress before crises and conflicts break out.

140. We fully support the mission of the Special Adviser of the Secretary-General on the Prevention of Genocide.[2]

The precise wording of these three paragraphs is important as it represents the current extent of international policy regarding R2P and it is the only amplifying policy that shapes the dialogue of intervention beyond the traditional Charter references cited by the ICISS that were noted in the previous chapter. In addition to its adoption by the General Assembly in October, 2005, paragraphs 138 and 139 were adopted by the Security Council in its April 2006 Resolution 1674, paragraph four.[3] The Security Council in Resolution 1894 subsequently reaffirmed paragraphs 138 and 139, in 2009.

While describing the adoption of the World Outcome Summit as "one of the greatest boosts to R2P," Sharma notes the disappointment of ICISS co-chair, Gareth Evans, that the Outcome Document omitted criteria for the use of military force.[4] Even if Resolution 1674 fell short of the hopes and expectations of R2P advocates, its adoption by the UNSC paved the way for the future efforts with the commitment of "continuing consideration to remain seized of the matter" to shape an international R2P policy.

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[2] UN, General Assembly, *2005 World Summit Outcome: Draft Resolution Referred to the High-Level Plenary Meeting of the General Assembly* (New York: UN, 2005), 31-32.

[3] UN, Security Council, *Security Council Resolution. Protection of Civilians in Armed Conflict,* UNSC S/RES/1674 (New York: UN, 2006), 2.

[4] Serena K. Sharma, "Toward a Global Responsibility to Protect: Setbacks on the Path to Implementation," *Global Governance* 16, no. 1 (March 2010): 123.

Implementing the Responsibility to Protect

The next milestone in UN efforts to institutionalize R2P was the 2009 Report of the Secretary General, Implementing the Responsibility to Protect. The report was provided to the sixty-third session of the United Nations as a follow-up to the Millennium Summit as the first step to develop a strategy, standards, processes, tools and practices for R2P. The report builds upon and provides amplifying information to the text of paragraphs 138 and 139 to forward a simple framework of three pillars. Pillar One deals with the responsibilities of the state, Pillar Two covers the responsibilities of the international community, and Pillar Three is timely and decisive response.[5] The three pillars are mutually supportive, balanced and necessary elements of any R2P doctrine.

Pillar One, the responsibilities of the state, emphasizes that the individual state bears the primary responsibility of the protection of its population as an inseparable responsibility of sovereignty. It calls for an apolitical respect for human rights in culture, values and practice as the key to domestic responsibility while listing UN, regional, and NGO capabilities and tools available to assist governments to achieve this. Although most of the discussion focuses on ensuring equal rights to all people, it also acknowledges that perceptions of uneven growth and circumstances benefitting some groups over others will cause tension and must be managed.

Pillar Two, international assistance and capacity-building, defines the responsibility of the international community in non-coercive assistance activities to states trying to build and refine institutions and governance to protect their people from harm. Pillar Two assistance spans a broad spectrum of activities ranging from

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[5] UN, General Assembly, *Implementing the Responsibility to Protect. Report of the Secretary-General* A/63/677, (New York: UN, 2009), 2.

development investment, UN and regional assistance and monitoring, to consent-based

military assistance. Some of the approaches presented by the Secretary General include

increased investment of states in their security institutions, the creation of a rapid-

reaction UN police capability, consideration of preventive deployments, and targeting

development funding toward the poor or disenfranchised to improve their education,

equality, and social justice.[6]

Pillar Three, timely and decisive response, refers to the necessity for response

strategy that can be administered consistently and efficiently across widely variant

circumstances without rigid sequential restrictions or tightly defined trigger criteria.

Again, this pillar encompasses a wide range of non-coercive options and coercive

sanctions, with military intervention as a last resort. The goal of timely and decisive

response is to save lives, but is presented as a way to allow the international community

to demonstrate its determination to assist the distressed population while hopefully

deterring the necessity for an armed intervention.[7] It draws upon failures of international

capacity and will to intervene in Cambodia, Rwanda, the Democratic Republic of Congo,

Darfur, Somalia and the Balkans in the early 1990's. In recognition of past failures,

Pillar Three is also intended to provide a forcing mechanism to ensure the international

community acknowledges the existence of a crisis and actively contemplate assistance

options. The document draws upon ICISS Commission definition of roles and authorities

of the Security Council, General Assembly and Secretary General, and also endorses the

recommendation that the Permanent Five refrain from exercising their veto rights when

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[6] Ibid., 19.

[7] Ibid., 22-25.

addressing issues relating to R2P.[8] It does not, however, embrace the ICISS ideal that

R2P includes the responsibility to rebuild, nor does it interpret R2P as expansively

applicable to human conditions of distress as did the ICISS.

The extent of work still required to achieve an actionable R2P strategy can be

gleaned from the closing recommendations to the General Assembly:

- To define its "continuing consideration" role as mandated in paragraph 139 of the 2005 World Summit Outcome;
- To address ways to define and develop partnerships between states and the international community under Pillar Two;
- To consider whether and, if so, how to conduct a periodic review of what member states have done to implement R2P; and
- To determine how best to exercise its oversight of the Secretariat's efforts to implement R2P.[9]

The report puts forward a self-described, broad-based common strategy for

operationalizing R2P; however, it does little more than to list existing capabilities, tools

and approaches in a loosely structured, three pillar model. Aside from promoting burden

sharing, there is no discussion of the means by which to expand development investment

in the numerous areas noted, nor does it offer compelling insights for correcting a

deficiency of international will in confronting humanitarian crises. There is simply more

work required by the Joint Offices of the Special Advisers on the Prevention of Genocide

to shape the Secretary General's R2P vision into a coherent strategy that can win support

in the General Assembly and can be implemented on a consistent and equitable basis.

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[8] Ibid., 27.

[9] Ibid., 30.

Early Warning, Assessment and the Responsibility to Protect

The Secretary-General released the third major UN effort to advance R2P doctrine, "Early Warning, Assessment and the Responsibility to Protect," in July 2010. As specified in paragraph 138 of the World Summit Outcome, a robust early warning and analysis capability is critical to the preventive nature of R2P. To fulfill the mandate to establish an early warning capability, this report outlines current capabilities, assessment mechanisms, organizational roles and responsibilities, and recommends solutions for gaps in information collection and sharing, analysis, and elevation.

The Office of the Special Advisor on the Prevention of Genocide, created in August 2007, fulfills the early warning and indications function, collecting and analyzing information related to R2P concerns. The Office maintains case files on potential R2P issues, using an eight-category analysis framework to assign a cumulative effect that determines when the Office forwards updates to the Secretary-General.[10] The Office receives information from a large number of UN agencies including the Interagency Framework for Coordination on Preventive Action (informal group of 21 UN offices), the Department of Peacekeeping Operations, the Children's Fund, the Office of the High Commissioner for Human Rights, and the Office of the High Commissioner for Refugees.[11] Each of these pulls information from well-established, extensive field organizations.

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[10] UN, Office of the Special Adviser on the Prevention of Genocide (OSAPG), "Analysis Framework," OSAPG, http://www.un.org/en/preventgenocide/adviser/pdf/osapg_analysis_framework.pdf (accessed February 7, 2012).

[11] UN, General Assembly, *Early warning, assessment and the responsibility to protect. Report of the Secretary-General* A/64/864, (New York: UN, 2010), 3-4.

Three significant obstacles arise from the OSAPG process for collection, sharing

and analysis of information relevant to R2P monitoring efforts.[12] The first is insufficient

internal organizational information sharing. Despite recognition of the importance of

information sharing and efforts to ensure access, the current hierarchy is inefficient due to

the quantity of information and personnel involved. The second shortfall is that these

information streams are evaluated by individual departments in terms relating to their

own missions or mandates, rather than from an R2P perspective. This process leaves

open a possibility that critical information will not be recognized and elevated to the

OSAPG. The final and most significant shortfall is the lack of UN policy detailing

viable, tailorable response options for every stage of a humanitarian crisis. For

successful implementation, analysts within the OSAPG will require complete access to

the aforementioned information streams to enable continuous assessment and timely

decision-making for potential crises.

This report offered few actionable solutions other than an organizational

consolidation under the OSAPG of two UN Special Advisers with R2P functions.

Otherwise, it called for a continued conversation between the UN, member states, and

civil society organizations to enhance "continuing consideration" of R2P.[13]

Acknowledging the absence of a R2P framework, the Secretary-General outlined an ad

hoc process by which the OSAPG will elevate cases to the Secretary-General and UNSC.

If necessary, the Secretary-General states that he will invoke new internal procedures to

determine a UN response.[14] His specific authorities are limited in this regard to Article

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[12] Ibid., 4.

[13] Ibid., 6.

[14] Ibid., 7.

99, which allows him to personally bring to the Security Council any matter which may

threaten international security and peace.[15]

The most interesting excerpt from this report may address a possible alternative to

the obstructionist use of veto power by the Permanent Five at the UNSC. "Decisions

about collective action, as well as judgments about whether peaceful means are

inadequate and whether national authorities are manifestly failing to protect, should

ultimately be made by the Security Council or, less frequently, by the General

Assembly."[16] This statement is curious because General Assembly authorities as defined

in Articles 10 and 11 prevent it from directing action; however, a recommendation by the

General Assembly could provide necessary pressure for Security Council action.[17] The

July 2009 UN debate on R2P implementation yielded General Assembly Resolution

63/308 to "continue its consideration of the responsibility to protect," disappointing the

R2P community.[18]

Regional Organizations

The UN Secretary-General's third and most recent R2P report, *The Role of*

Regional and Sub-regional Arrangements in Implementing the Responsibility to Protect,

envisions a co-dependent relationship between the UN and regional organizations.

Recognizing the prominent role of regional entities defined by Chapter VIII of the UN

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[15] UN, *Charter of the United Nations and Statute of the International Court of Justice*, (New York, United Nations, 1968), Article 99.

[16] UN, General Assembly, *Early warning, assessment and the responsibility to protect. Areport of the Secretary-General* A/64/864, (New York: UN, 2010), 2.

[17] The International Commission on Intervention and State Sovereignty, Gareth J. Evans, and Mohamed Sahnoun, *The Responsibility to Protect: Report on the International Commission on Intervention and State Sovereignty*, (Ottawa: International Development Research Centre, 2001), 48-49.

[18] Sharma, "Toward a Global Responsibility to Protect: Setbacks on the Path to Implementation," 121.

Charter, the Secretary-General envisions the role of regional organizations, when available, as the link between the UN and troubled countries. Paragraph 139 of the World Summit Outcome document reinforces this role, stating that UN intervention activities should be done in cooperation with "relevant regional organizations as appropriate."

In addition to Chapter VIII authorities, regional entities figure prominently in this discussion because most countries are members of one or more regional or sub-regional arrangement.[19] If coordinated effectively, regional and sub-regional organization capabilities can heavily benefit the three R2P Pillars of responsibility, prevention and response. They contribute to early warning, analysis, and assessment capabilities, raising international awareness of potential crises and facilitating accurate and timely flow of two-way information. They act as early engagement partners for preventive engagement, fact-finding, conflict mediation,[20] and personal persuasion. These organizations provide a nuanced understanding of regional problems, may exert additional international influence on member states, and provide advocacy and validation of UN decisions. Regardless of the phase of a developing crisis, they offer valuable insights into where and how the international community could assist.

The Secretary-General's strategy can be summarized as a recognition of the legal importance of regional entities under the UN Charter and a necessity to involve them in UN R2P efforts aross all three pillars. He outlines a UN responsibility to provide forums for collaboration and broader education and training programs to share best practices while preserving the consistency, interpretation and application of R2P. In particular, he

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[19] UN, General Assembly, *Early warning, assessment and the responsibility to protect. Areport of the Secretary-General* A/64/864, (New York: UN, 2010), 12.
[20] Ibid., 4.

states that the UN will focus assistance efforts on countries recovering from conflict, providing training for legal, police and government institutions. In developing relationships with regional organizations, he expects to build regional ownership of the R2P concept,broardening the impact of these efforts via a trickle-down effect to member states.

Chapter Summary

Although progress to establish policy relating to the enforcement of R2P has been slow, it should be expected that such an effort will take time to shape the numerous contributions of both ideas and concerns brought by member states, regional and sub-regional organizations, NGOs and other interested parties. As observed by Chesterman, the UN adoption of the 2005 World Summit Outcome document affirms intervention authorities which the Security Council had already exercised for over a decade.[21] While documenting the UN debate on implementing R2P, Sharma argues that disagreement between R2P advocates slows progress even more than those who oppose it.[22] The process, glacially slow against the backdrop of potential humanitarian crises, succeeded in getting "its foot in the door" through the initial adoption of comparatively simple concepts in paragraphs 138 and 139 of the World Summit Outcome. It must now win incremental consensus as it develops and defines R2P policy roles and authorities in such a way as to win support from the 193 member states of the General Assembly and, ultimately, the Security Council.

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[21] Simon Chesterman, "Leading from Behind: The Responsibility to Protect, the Obama Doctrine, and Humanitarian Intervention after Libya," *Ethics & International Affairs* 25, no. 3 (September 2011): 280.

[22] Sharma, "Toward a Global Responsibility to Protect: Setbacks on the Path to Implementation," 122.

Early criticism of the ability of the international community to apply R2P is premature, as argued by the UN Special Adviser for Conceptual, Political and Institutional Development of R2P, due to its incomplete state.[23] The true value in UN R2P efforts to date is the international adoption of R2P as a norm, the elevation of R2P in international dialogue, the utility in bolstering international will to address emerging crises, and potential for further development and application.

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[23] Edward C. Luck, "The Responsibility to Protect: Growing Pains or Early Promise?" *Ethics & International Affairs* 24, no. 4 (2010), 363.

CHAPTER 5: THE UNITED STATES AND R2P

Introduction

Paralleling the UN effort to establish an R2P doctrine, the US has also made progress in the institutionalization of R2P. US efforts hold the potential to make significant gains toward a coherent strategy as a result of its higher priority in the current administration. Another advantage enjoyed by the R2P movement in the US is the immediate momentum afforded it by the executive branch defining it as a national interest and issuing a Presidential Directive to create institutions and mechanisms to develop a policy. The political challenges to the establishment of a domestic policy supporting R2P will also likely be less complex considering the primary audience is the US population, whose shared values and historical humanitarian concern make it more open to such a concept.

There are two relevant products of dedicated interagency efforts that provide significant substance to defining the U.S. approach to R2P. The first is a report by the Genocide Prevention Task Force, *Preventing Genocide, A Blueprint for U.S. Policymakers*. This report, informed by the ICISS report and published in 2008 prior to the UN Secretary-General's report on R2P implementation, included a direct request to the incoming President Obama to implement specific recommendations of the task force central to the development of domestic R2P policy. The second interagency product, specific to the use of military force in interventions, is *Mass Atrocity Response Operations: A Military Planning Handbook*. Published in 2010 and heavily informed by the GPTF report, it culminates a three-year interagency effort.

These two documents are germane to this discussion because the GPTF report

was explicitly referenced in President Obama's PSD-10 as the starting point of an

interagency review to develop an atrocity prevention and response policy.[1] The GPTF

report included a reference and endorsement of the concurrent interagency effort that was

working toward completion of the *MARO Handbook*.[2]

Presidential Study Directive on Mass Atrocities/PSD-10

PSD-10 is the most significant advancement of R2P policy development taken by

any country or international organization since the release of the ICISS report. It elevates

the prevention of mass atrocities and genocide to the status of a core national security

interest and accepts it as a national moral responsibility. PSD-10 required the

establishment of a new interagency Atrocities Prevention Board (APB) within 120 days

and tasked the National Security Advisor to determine the appropriate membership,

mandate, structure, authorities and support necessary for the APB to develop atrocity

prevention and response policy.[3]

PSD-10 also included a host of requirements regarding recommendations on

policy elements including a full range of response options, trigger criteria, intelligence

gathering, analysis and sharing, roles of regional and sub-regional organizations, and

potential training for the foreign and armed services.[4] These are strikingly similar

concerns as expressed in the ICISS report, the Secretary-General's report on

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[1] U.S. President, *Presidential Study Directive on Mass Atrocities*, (Washington DC: Government Printing Office, August 2011), 2.

[2] Madeleine K. Albright, William S. Cohen, and John C. Danforth, *Preventing Genocide: A Blueprint for U.S. Policymakers* (Washington, DC: American Academy of Diplomacy, 2008), 88.

[3] U.S. President, *Presidential Study Directive on Mass Atrocities*, (Washington DC: Government Printing Office, August 2011), 1.

[4] Ibid., 2.

implementing R2P, and the GPTF report. PSD-10 also required an immediate 100-day

interagency review to answer the preceding questions and to compile a list of authorities

and capabilities to populate a comprehensive framework for the prevention of atrocities.

Assuming the suspense only includes standard business days, the deadline for the reviews

would have passed by February 2012. As of April 2012, there has been no available

public update on these efforts.

The Genocide Prevention Task Force

The Genocide Prevention Task Force was convened jointly by the United States

Institute of Peace, the United States Holocaust Memorial Museum, and the American

Academy of Diplomacy. Co-chairs, former Secretary of State Madeleine Albright and

former Secretary of Defense William Cohen, drew upon the expertise of a core panel of

fifty subject matter experts from NGOs, academia, and public service with half the

membership having previously served in the U.S. House of Representatives or the

Senate.[5]

The GPTF makes the case that genocide threatens national security in three

ways.[6] The first is that genocide fuels instability that can have broad regional impact,

particularly when it occurs in areas of regional distress or high concentrations of failing

states, as illustrated in the Failed States Index.[7] The second is that genocide has a long

lasting negative effect on the subject country and the region, including setbacks in

development and governance as well as potential spillover to neighboring populations.

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[5] Madeleine K. Albright, William S. Cohen, and John C. Danforth, *Preventing Genocide: A Blueprint for U.S. Policymakers* (Washington, DC: American Academy of Diplomacy, 2008), xii.

[6] Ibid., xx.

[7] The Fund for Peace, "Failed States Index 2011," The Fund for Peace, http://www.fundforpeace.org/global/?q=fsi-grid2011 (accessed October 25, 2011).

The longer the international community waits to act, the worse the problem will grow and the more costly it will be to mount an effective solution. The final reason the prevention of genocide is in the national interest of the US is that as the sole remaining superpower, the reputation of the US is tarnished whenever it fails to call the attention of the international community to a crisis that may result in genocide.[8] The report identifies overarching challenges to R2P both domestically and internationally. Time, resources, and political reality provide boundaries for R2P. At the international level, the core challenges include limited resources, a vacuum of policy, the concept of sovereignty and non-intervention, and the political will to act.[9]

The goal of the GPTF was to identify a practical approach to develop the ability of the U.S. to effectively prevent and respond to mass atrocities. To achieve this goal, the task force organized its analysis and recommendations across five objectives. These objectives include (1) assessing risks and providing warning of potential atrocities; (2) pre-crisis engagement in countries at risk; (3) halting and reversing escalation toward mass violence; (4) military options to prevent and stop ongoing atrocities; and (5) shaping the international system to prevent genocide.[10] These objectives emphasize the key R2P aspects of prevention and early engagement. The task force's final report is presented by chapter around these five objectives and includes a preceding chapter on leadership addressed to the U.S. President, Congressional leaders and the American people. For each of the five objectives, the report provides a justification for its inclusion, associated objectives, challenges of the current domestic and international

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[8] Ibid., xx.

[9] Ibid., xxi.

[10] Ibid., xii.

systems, readiness based upon available tools and capabilities, and recommendations to

address shortfalls, develop policy, and achieve domestic and international unity of effort.

Although the justifications for the importance of each of the five objectives largely

reflected the findings of the ICISS, the analysis and recommendations were unique to the

capabilities, tools and political systems of the US.

The report was released in 2008 and included an overt appeal in its Executive

Summary to the incoming President Obama for leadership and "to muster the political

will" to establish genocide prevention as a national priority. Of its 38 detailed

recommendations, four were directly addressed to the President.[11]

- The President should demonstrate that preventing genocide and mass atrocities is a national priority;

- The administration should develop and promulgate a government-wide policy on preventing genocide and mass atrocities;

- The President should create a standing interagency mechanism for analysis of threats and consideration of appropriate action;

- The President should launch a major diplomatic initiative to strengthen global efforts to prevent mass atrocities and genocide.

The President satisfied the first recommendation with his inclusion and emphasis

on R2P in his NSS and PSD-10. The second and third recommendations were satisfied in

PSD-10. Although there is no explicit effort to satisfy the fourth recommendation, it is

arguable that recent US involvement in resolving crises in Libya and Syria, along with

the President's public commitment to establish a national R2P policy may potentially set

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[11] Ibid., 6-10.

the example for similar interest in the governments of France, Germany, Norway and the United Kingdom.[12]

The report includes a significant amount of substantiation and justification intended to support its argument, which adds to its bulk. Once distilled, it provides a viable, flexible, and whole of government framework from which to approach the development of a policy along with specific, informed recommendations on how best to implement its various elements. In terms of the ends-ways-means mismatch, the development of policy at the domestic, regional and international level will define the broad range of ways to achieve the goal of protection of civilians. The greatest challenge will be to identify the means, in terms of funding and personnel, by which to implement the ways.

Mass Atrocity Response Operations: A Military Planning Handbook

The importance of the MARO handbook in this discussion is threefold. First, it is specifically endorsed in the GPTF report, which is the primary source document for the ongoing interagency review directed by President Obama. Second, it is representative of the quality of an interdisciplinary effort to produce a whole of government approach for any of the three national instruments of power, diplomacy, development and defense. Finally, it contributes to all five objectives of the GPTF, not solely objective four which is the development of military options to prevent and stop ongoing atrocities.

Sarah Sewall, the Deputy Assistant Secretary of Defense for Peacekeeping during the Rwanda genocide, founded the MARO Project in 2007. It was supported by the

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[12] International Coalition for the Responsibility to Protect (ICRtoP), "National endorsements of Responsibility to Protect," ICRtoP, http://responsibilitytoprotect.org/RtoP%20National%20level(2).pdf (accessed February 20, 2012).

Humanity United Foundation and operated from the Carr Center for Human Rights

Policy at the Harvard Kennedy School. It used a core planning group led by the director

of the Peacekeeping and Stability Operations Institute at the U.S. Army War College.[13]

Written in two sections, it first examines the unique characteristics and dynamics

of a humanitarian crisis from a MARO context, including multiparty dynamics, the

importance of impartiality, and potential rapid escalatory nature of genocide.[14] It further

refines these three into eight major operational and political considerations that require

complete understanding prior to contemplation of a MARO. The second section of the

handbook details military planning templates, called an annotated planning framework,

intended to provide the Geographic Combatant Commnders (GCC) with a tool for

developing a Commander's Estimate and associated military planning requirements for a

MARO. It incorporates feedback from briefings to US military representatives, US

government officials, the UN and NGOs where appropriate. It was further vetted via a

tabletop exercise with the deliberate and crisis action planning cells at U.S. European

Command in January of 2010 with plans for additional exercises at other GCCs.[15]

The intended audience of the *MARO Handbook* is senior policy makers. It

provides a comprehensive range of military courses of action and flexible deterrent

options based on capabilities, resources, and the stage of the crisis.[16] It also provides the

GCCs with a detailed template closely aligned to the joint operational planning process

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[13] Sarah B. Sewall, Dwight Raymond, Sally Chin, and John Kardos, *MARO. Mass Atrocities Response Operations: A Military Planning Handbook* (Cambridge, MA: Harvard Kennedy School, 2010), 8-9.

[14] Madeleine K. Albright, William S. Cohen, and John C. Danforth, *Preventing Genocide: A Blueprint for U.S. Policymakers* (Washington, DC: American Academy of Diplomacy, 2008), 25-28.

[15] Ibid., 11.

[16] Sarah B. Sewall, Dwight Raymond, Sally Chin, and John Kardos, *MARO. Mass Atrocity Response Operations: A Military Planning Handbook* (Cambridge, MA: Harvard Kennedy School, 2010) Parts II and III.

(JOPP). Although the format, vocabulary, and processes directly reflect *Joint Publication 5-0: Joint Operation Planning*, it brings interagency, international and NGO interaction and coordination to the front of the process, rather than as annexes at the end of traditional military plans. In its current state, it could be easily translated into a Department of Defense joint publication or further modified as a NATO military planning publication.

Formative Personalities in United States R2P Policy

The national leadership of invested nations champion and shape the policies and priorities that promote the development of humanitarian intervention. They are the political will and driving force behind R2P, advocating and coordinating efforts at the domestic, regional and international level to raise visibility of and acceptance of R2P concepts.

The Obama administration has achieved significant progress in the conceptualization of R2P policies and the President's interest and commitment to the issue may be evaluated based upon his appointments to key diplomatic and advisory positions within his adminsitration. Considering the relevance of personalities in shaping domestic policy and advocating international action, one must consider the professional experience and expertise of these political figures. These include the Secretary of State, the US Ambassador to the UN, the Senior Director of Multilateral Affairs on the staff of the National Security Council (NSC), and the recently appointed Director for War Crimes, Atrocities and Civilian Protection.

Secretary of State Hillary Clinton, as former-First Lady, is acutely aware that President Clinton has called the failure of the United States to intervene in Rwanda his

biggest regret. In March of 2011, the New York Times quoted anonymous

administration sources to credit her with tipping the discussion in favor of military

intervention in Libya and, along with Ambassador Rice and Director Power, convincing

President Obama to pursue the use of military force through the UN.[17]

Ambassador Rice served as the Director for International Organizations and

Peacekeeping on the National Security Council staff from 1993 until 1995, after which

she held positions as Special Assistant to President Clinton and NSC Senior Director for

African Affairs from 1995 to 1997, and as U.S. Assistant Secretary of State for African

Affairs from 1997 until 2001.[18] Regarding her role during the 1994 Rwandan crisis, she

was quoted by Samantha Power in "Bystanders to Genocide" as saying, "There was such

a huge disconnect between the logic of each of the decisions we took along the way

during the genocide and the moral consequences of the decisions taken collectively. I

swore to myself that if I ever faced such a crisis again, I would go down on the side of

dramatic action, going down in flames if that was required."[19] In her first address to the

Security Council as the US Permanent Representative to the UN, Ambassador Rice

employed a narrow focus in her comments to emphasize US commitment to R2P.[20]

Ambassador Rice was influential in convincing Secretary Clinton to support

military intervention in Libya in 2011. With President Obama's approval, she was

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[17] Helen Cooper and Steven Myers, "Obama Takes Hard Line With Libya After Shift by Clinton," *New York Times*, March 18, 2011.

[18] United States Mission to the United Nations, "Ambassador Susan E. Rice," US Mission to the UN, http://usun.state.gov/leadership/c31461.htm (accessed February 22, 2012).

[19] Samanth Power, "Bystanders to Genocide," *The Atlantic Monthly* 288, no. 2: 44, September 2001, http://www.theatlantic.com/magazine/archive/2001/09/power-genocide/4571/?single_page=true (accessed 17 November 2011).

[20] United States Mission to the United Nations, *Statement by Ambassador Susan E. Rice, US Permanent Representative, on Respect for International Humanitarian Law*, by Ambassador Susan Rice, US Mission to the UN. New York, NY, 2009.

successful in securing a much more stringent UNSC resolution that authorized the use of force against Libyan military targets and to enforce the arms embargo.[21] Finally, she is credited with orchestrating the requisite UNSC votes to pass the resolution.[22]

The President's Senior Director of Multilateral Affairs on the staff of the NSC, Samantha Power, was a well-published journalist and outspoken advocate for humanitarian intervention before being selected by then-Senator Obama to be his top aide on foreign policy.[23] She is also a passionate critic of past administrations, both Republican and Democrat, as demonstrated in her Pulitzer Prize winning book, *"A Problem From Hell:" America and the Age of Genocide.* She also authored a highly critical article on the Clinton Administration's handling of Rwanda in, "Bystanders to Genocide," for the *Atlantic Magazine* in 2001.[24]

David Pressman was named by President Obama to fill the position of NSC Director for War Crimes and Atrocities that was recently created by Presidential Study Directive-10. Having studied law at New York University, he clerked to the Rwandan Supreme Court, served as special assistant to Secretary of State Albright, and as a Sudan expert for the United Nations before being hired full-time by George Clooney as his personal advisor on human rights.[25] In addition to acting as Clooney's personal guide on

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[21] Massimo Calabresi, "Susan Rice: A Voice for Intervention," *Time Magazine*, March 24, 2011, http://www.time.com/time/magazine/article/0,9171,2061224,00.html (accessed February 2, 2012).

[22] Helen Cooper and Steven Myers, "Obama Takes Hard Line With Libya After Shift by Clinton," *New York Times*, March 18, 2011.

[23] Jacob Heilbrunn, "Samantha and Her Subjects," *The National Interest*, no. 113 (May/June 2011): 9.

[24] Samanth Power, "Bystanders to Genocide," *The Atlantic Monthly* 288, no. 2: 44, September 2001, http://www.theatlantic.com/magazine/archive/2001/09/power-genocide/4571/?single_page=true (accessed 17 November 2011).

[25] Washington Post, "People in the News: David Pressman," Washington Post, http://www.washingtonpost.com/politics/david-pressman/gIQAC3UjAP_topic.html (accessed February 20, 2012).

trips to the Darfur region of Sudan, he cofounded the group Not on Our Watch with him

and accompanied him on numerous international trips to lobby for heightened attention to

conditions in Darfur.[26]

Chapter Summary

The U.S., under the executive leadership of President Obama, has made

significant strides in the adoption of R2P as a national interest and priority. By his

inclusion of R2P in his NSS and subsequent QDR, and his directive mandating an

immediate and comprehensive interagency review of the tools and capabilities for

preventing atrocities, he has provided instant momentum to the development of a R2P

policy. Furthermore, his creation of the Atrocities Prevention Board and assignment of

their activities under the National Security Staff's Director for War Crimes and Atrocities

elevates the national discussion and provides high level authority to further fuel the

effort. Ghana, Denmark, Argentina, Costa Rica, the Netherlands and Uruguay are the

only other countries with national coordinators for R2P.[27]

The framework provided by the GPTF, the reference document for the PSD-10

interagency effort, lays out a coherent approach to develop and implement R2P policy.

Accompanied by the MARO handbook, which was both informed by and synchronized to

the GPTF report and socialized with the military, domestic government and the

international community, there is an abundance of material available from which to

rapidly develop a national policy for R2P.

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[26] Los Angeles Times, "George Clooney depends on 'Cuz'," Los Angeles Times, http://articles.latimes.com/2008/may/02/entertainment/et-cause2 (accessed February 20, 2012).

[27] International Coalition for the Responsibility to Protect, "National endorsements of Responsibility to Protect, " ICRtoP, http://responsibilitytoprotect.org/RtoP%20National%20level(2).pdf (accessed February 20, 2012).

There are still obstacles to the creation of a comprehensive national R2P policy, the most significant of which is the identification of means, or resources, to ensure the full range of policy options. The GPTF report promotes a modest operating budget of 250 million dollars to fund its proposed US R2P policy. But this does not account for the possible excessive costs in money and US lives to exercise a military intervention. Without the credible threat of military options, any national policy will likely lose its efficacy as a deterrant to perpetrators of atrocities. Another obstacle is the partisan environment of the US political landscape. As Patrick observes, successful development of US R2P depends upon the attitudes of future US presidents and the Amercan people.[28] If the President cannot make a compelling argument for R2P, it will be difficult or impossible to exercise the full range of R2P response options. While the current President has elevated R2P thus far through executive power, any national policy regarding R2P must be apolitical and flexible to survive both congressional scrutiny or objection during implementation and future administration changes.

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[28] Patrick Stewart, "Libya and the Future of Humanitarian Intervention," *Foreign Affairs*, http://www.foreign affairs.com/articles/68233/stewart-patrick/Libya-and-the-future-of-humanitarian-intervention (accessed 20 February 2012).

CHAPTER 6: CONCLUSION

The goal of this paper was to identify US opportunities to exercise leadership in the development, institutionalization and operationalization of R2P policy. In doing so, it was necessary to understand the strategic environment, particularly the conditions and trends that impact the ability of governments to provide for the security of their populations. As illustrated in Chapter 2, the various stressors that fuel pre-existing tensions between groups and fuel regional instability are likely to worsen as growing populations compete for fewer resources.

In response to repeated challenges from then-UN Secretary General Kofi Annan, the ICISS convened and published its final report, introducing the concept that sovereignty entailed a responsibility of states to protect their populations from threat. Along with changing the focus of the discussion from "the right to intervene" to a "responsibility to protect," it drew upon a succession of international successes and failures of the 1990s to propose a framework for the establishment of international policy that focused on prevention. The proposal forwarded by the ICISS also included an international responsibility for post-conflict rebuilding and expanded the circumstances meriting international responsibilities to include all widespread threats, natural or man-made, which exceeded the state's ability or will to rectify. The greatest shortfall in the ICISS framework was its lack of credible ideas to identify the resources, both financial and personnel, required to implement and execute a full range of options such a policy would require. However, as Chesterman notes, R2P does not create new rights or

obligations to take certain actions, rather, it makes it harder to do the wrong thing or nothing at all.[1]

In 2006, the UN adopted the ICISS redefinition of sovereignty as including a responsibility to protect and embraced the legitimacy of preventive action when faced with the potential of mass atrocities. This resolution, adopted by both the General Assembly and the Security Council, effectively ended the argument over Article 2.4 rights of sovereign states between opponents and proponents of intervention. The UN policy regarding R2P is captured in paragraphs 138, 139 and 140 of the *2005 World Summit Outcome*. It did not recognize the ICISS inclusion of the responsibility for post-conflict reconstruction and criteria for military intervention, nor did it endorse the idea of R2P including access to food, employment, environmental security, and disease.[2] As adopted by the UN, R2P is limited to the protection of populations from genocide, war crimes, ethnic cleansing and crimes against humanity.

Subsequent UN reports and annual meetings on the implementation of R2P, establishing an early warning capability, and the role of regional organizations have not yielded substantive progress in developing R2P beyond the UN adoption of the *2005 World Summit Outcome* document. These additional reports also lack coherency and granularity, falling short of providing a comprehensive and consistent framework on how to address humanitarian crises. In particular, they fail to identify credible means to resource collective action and do not provide a vehicle to override or redress UNSC

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[1] Chesterman, "Leading from Behind: The Responsibility to Protect, the Obama Doctrine, and Humanitarian Intervention after Libya," 282.

[2] The International Commission on Intervention and State Sovereignty, Gareth J. Evans, and Mohamed Sahnoun, *The Responsibility to Protect: Report on the International Commission on Intervention and State Sovereignty*, (Ottawa: International Development Research Centre, 2001), VII.

failures to authorize collective action. Nor do they allay a growing dissatisfaction within the R2P community with the UNSC as the ultimate arbiter of intervention authority. Walzer captures this sentiment, "The UN Security Council rarely acts effectively in crises, not only because of the veto power of its leading members but also because its members do not have a stong sense of responsibility for global security. They pursue their own national interests while the world burns."[3] Kirchik echoes this perspective and argues that the Russian and Chinese veto of the UNSC resolution calling for the Syrian president to halt government violence and step down points to a need for more robust US leadership in humanitarian crises.[4]

The U.S., under the leadership of President Obama, has made significant strides in the development of R2P policy. Starting with the incorporation of R2P within the NSS and the QDR and subsequent participation in the UN authorized, NATO led intervention in Libya, the administration released PSD-10 in late 2011. In doing so, the President established a new agency, the Atrocities Prevention Board (APB), to coordinate a whole of government approach to develop a national policy for preventing and responding to mass atrocities. To guide the APB effort, the President directed the use of the GPTF report, which was co-chaired by a former U.S. Secretary of State and Secretary of Defense. Additionally, the President elevated the responsibility for oversight to the Natioanl Security Advisor via the National Security Staff's Director for War Crimes and Atrocities. The President has also achieved momentum in R2P policy development

[3] Michael Walzer, "On Humanitarianism: Is helping others Charity, or Duty, or Both?" *Foreign Affairs* 90, no.4 (July/August 2011): 68-90.

[4] James Kirchik, "Non-interventionist David Rieff is Wrong on Syria," *World Affairs*, http://www.worldaffairsjournal.org/article/non-interventionist-david-rieff-wrong-syria (accessed May 19, 2012).

through the appointment of human rights advocates and former government officials who played key roles in past crises to key leadership positions within his administration.

A critical challenge to the establishment of a domestic R2P policy is the necessity to strike a balance between realistic and idealistic concerns. The realist is focused on the means, the commitment of funding and personnel for an indeterminate time, whereas the idealist is focused on the ends, an international moral obligation to prevent atrocities committed against civilians. To bridge the ends and means of R2P, the administration must be sensitive to partisan political concerns to ensure the development of a policy that is both apolitical and flexible. In this way, the administration can ensure its efforts to institutionalize R2P will survive partisan congressional scrutiny and future administration turnovers. It will also allow the APB to continue its efforts without concern of partisan political maneuvering during an election campaign for the US presidency.

Opportunities for U.S. Leadership

Recommendation 1: The ongoing Atrocities Prevention Board review directed by PSD-10 should review, adapt, and implement the frame work and recommendations provided by the GPTF. As noted in Chapter 5, President Obama has already implemented and adopted the language contained in the GPTF recommendations. Furthermore, the application of incrementism and gradualism in the use of diplomatic, economic, legal and military instruments of power spanning the range of non-coercive to coercive options or sanction is already in practice at both the Departments of State and Defense. However, without a baseline policy or governing document, the US approach will continue to be both disjointed and ad hoc. The remaining recommendations primarily establish formal linkages between existing US capabilities to provide the

Atrocities Prevention Board with timely and accurate information with which to inform senior decisionmakers. The GPTF framework is apolitical and flexible, providing current and future senior government officials a framework to address potential crises without over obligating resources. Most importantly, the development of a coherent U.S. policy for mass atrocity prevention and response may benefit from a primacy effect for similar policy formulation and implementation in regional organizations and, potentially, at the UN.

Recommendation 2: The US should initiate a concurrent effort to establish R2P policy within NATO. The US may more easily leverage its leadership role within NATO by providing appropriate assistance to develop a policy that more closely approximates that of the US. NATO represents a realistic opportunity for the US to internationalize its emerging R2P policy due to membership of like-minded democracies and smaller voting body, its proliferation of regional partnerships and cooperative organizations, and its demonstrated capability and capacity to conduct intervention operations. With its recent success is the military enforcement of a UNSC resolution to avert potential atrocities in Libya in 2011, it would be reasonable for NATO to formalize the decisionmaking process and operation through the development of an organizational R2P policy. In addition to more widely institutionalizing the new norm of R2P, the establishment of R2P policy similar to that of the US at NATO would provide momentum and legitimacy for acceptance of the US approach within other regional organizations and the UN.

Closing

The absence of R2P policy at the domestic, regional and UN levels of governance results in an ad hoc approach to the recurrent problem of the infliction of mass atrcoities on populations whose governments are incapable of or unwilling to provide security. The development and implementation of a comprehensive, flexible, domestic US R2P policy to prevent and respond to mass atrocities presents an opportunity for the US to establish realistic ways and means to support the idealistic ends of R2P. The first of the five permanent members of the UNSC to articulate an R2P policy, a US framework would likely inform future regional and international efforts to establish similar approaches.

Definitions of Genocide and Mass Atrocity Crimes:

GENOCIDE as defined by Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

    (a)   Killing members of the group;

    (b)   Causing serious bodily or mental harm to members of the group;

    (c)   Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

    (d)   Imposing measures intended to prevent births within the group;

    (e)   Forcibly transferring children of the group to another group.

CRIMES AGAINST HUMANITY as defined by Article 7, paragraphs 1 through 3, of the Rome Statute of the International Criminal Court:

1.   For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

    (a)   Murder;

    (b)   Extermination;

    (c)   Enslavement;

    (d)   Deportation or forcible transfer of population;

    (e)   Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;

    (f)   Torture;

    (g)   Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

    (h)   Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;

(i)   Enforced disappearance of persons;

(j)   The crime of apartheid;

(k)   Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

2.   For the purpose of paragraph 1:

(a)   "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;

(b)   "Extermination" includes the intentional infliction of conditions of life, <u>inter alia</u> the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;

(c)   "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

(d)   "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;

(e)   "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

(f)   "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;

(g)   "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;

(h)   "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

(i)   "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

3.   For the purpose of this Statute, it is understood that the term "gender" refers to the two sexes, male and female, within the context of society. The term "gender" does not indicate any meaning different from the above.

WAR CRIMES as defined by Article 8, paragraphs 1 and 2, of the Rome Statute of the International Criminal Court:

1.   The Court shall have jurisdiction in respect of war crimes in particular when committed as part of a plan or policy or as part of a large-scale commission of such crimes.

2.   For the purpose of this Statute, "war crimes" means:
    (a)   Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:
            (i)   Wilful killing;

            (ii)   Torture or inhuman treatment, including biological experiments;

            (iii)   Wilfully causing great suffering, or serious injury to body or health;

            (iv)   Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;

            (v)   Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;

            (vi)   Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;

            (vii)   Unlawful deportation or transfer or unlawful confinement;

            (viii) Taking of hostages.

    (b)   Other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:
            (i)   Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

            (ii)   Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;

            (iii)   Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

            (iv)   Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

            (v)   Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;

(vi)   Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;

(vii)   Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;

(viii)   The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

(ix)   Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

(x)   Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xi)   Killing or wounding treacherously individuals belonging to the hostile nation or army;

(xii)   Declaring that no quarter will be given;

(xiii)   Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;

(xiv)   Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;

(xv)   Compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;

(xvi)   Pillaging a town or place, even when taken by assault;

(xvii)   Employing poison or poisoned weapons;

(xviii)   Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;

(xix)   Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;

(xx)   Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict, provided that such weapons, projectiles and material and methods of warfare are the subject of a comprehensive prohibition and are included in an annex to this Statute, by an amendment in accordance with the relevant provisions set forth in articles 121 and 123;

(xxi)   Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(xxii)   Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;

(xxiii)   Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

(xxiv)   Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(xxv)   Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;

(xxvi)   Conscripting or enlisting children under the age of fifteen years into the national armed forces or using them to participate actively in hostilities.

(c)   In the case of an armed conflict not of an international character, serious violations of article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause:

(i)   Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(ii)   Committing outrages upon personal dignity, in particular humiliating and degrading treatment;

(iii)   Taking of hostages;

(iv)   The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

(d)   Paragraph 2 (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.

(e)   Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

(i)   Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;

(ii)   Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;

(iii)   Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

(iv)   Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;

(v)   Pillaging a town or place, even when taken by assault;

(vi)   Committing rape, sexual slavery, enforced prostitution, forced pregnancy, as defined in article 7, paragraph 2 (f), enforced sterilization, and any other form of sexual violence also constituting a serious violation of article 3 common to the four Geneva Conventions;

(vii)   Conscripting or enlisting children under the age of fifteen years into armed forces or groups or using them to participate actively in hostilities;

(viii)   Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;

(ix)   Killing or wounding treacherously a combatant adversary;

(x)   Declaring that no quarter will be given;

(xi)   Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;

(xii)   Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;

(f)   Paragraph 2 (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.

3.   Nothing in paragraph 2 (c) and (e) shall affect the responsibility of a Government to maintain or re-establish law and order in the State or to defend the unity and territorial integrity of the State, by all legitimate means.

ETHNIC CLEANSING as defined by the Global Center for the Responsibility to Protect and quoted in the MARO Handbook:

The term "ethnic cleansing" has more recently come into general usage and is the least clearly defined of the four categories. It is understood to describe forced removal or displacement of populations, whether by physical expulsion, or by intimidation through killing, acts of terror, rape and the like: it is essentially one particular class of crimes against humanity.[1]

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[1] Sewall, *Mass Atrocity Response Operations: A military Planning Handbook*, 105.

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VITA

Commander Ivan G. Carlson, USN

Commander Ivan Carlson, from Morris, Illinois, graduated from the United States Naval Academy with a B.S. in General Engineering and was commissioned with the Class of 1991. A career aviator, he has served in various operational, instructor, staff and command assignments.

Completing Naval Flight Officer training in 1993, he reported to the FIGHTING MARLINS of Patrol Squadron FORTY at NAS Moffett Field, California, and completed a homeport change to NAS Whidbey Island, Washington. While attached to VP-40 he served as the NFO Training Officer completed two deployments to Misawa and Diego Garcia,flying as Mission Commander and Tactical Coordinatormissions in support of Operations SOUTHERN WATCH, DESERT STORM and VIGILANT SENTINEL.

In 1997 he reported as an NFO instructor to Flying Training Squadron 562 in San Antonio, Texas, serving as a Flight Instructor, "I" Flight Officer, and Assistant Director of Operations. During this time he was recognized by Chief of Naval Air Training (CNATRA) as the NFO Instructor of the Year for 1999. He served aboard the USS JOHN F. KENNEDY (CV 67) in Mayport, Florida, as an Aircraft Launch and Recovery Officer and V-2 Division Officer, deploying to the North Arabian Sea in support of Operation ENDURING FREEDOM.

Additional assignments included Patrol Squadron SIXTEEN at NAS Jacksonville, Florida, as the Maintenance Officer, deploying to Sigonella, Italy, and El Salvador in support of Operations VIGILANT SHIELD, ENDURING FREEDOM, JOINT GUARDIAN and DELIBERATE FORGE. He served on the the staff of Commander, Patrol and Reconnaissance Group in Norfolk, Virginia, from 2004-2006 as the P-3C fleet GROUP Maintenance Officer and from 2006-2008 at the Joint Deployment Training Center, under Joint Forces Command, J7 Directorate, as an instructor and Training Branch Chief. He served as the Executive Officer, Consolidated Maintenance Organization ELEVEN, NAS Jacksonville, Florida.

Most recently, Commander Carlson completed his Command tour as the Commanding Officer of Cooperative Security Location, El Salvador. Following the completion of the Joint Advanced Warfighting School curriculum, he will report to the staff of NATO Headquarters Allied Command Transformation.